

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:04CR106 MAC/DDB
	§	
OCIE BURNELL MCCUIN, JR. (21)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 29, 2016, to determine whether Defendant violated his supervised release. Defendant was represented by Felix Marquez. The Government was represented by Camelia Lopez.

On February 24, 2005, Defendant was sentenced by the Honorable Marcia A. Crone, United States District Judge, to a sentence of 120 months imprisonment followed by a 5-year term of supervised release for the offense of Conspiracy to Possess with Intent to Distribute Cocaine Base. Defendant began his term of supervision on June 5, 2013.

On March 9, 2016, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 1639). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not leave the judicial district without the permission of the court or probation officer; (3) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as Defendant is released from the program by the probation officer.

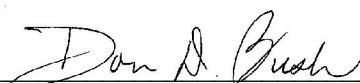
The Petition alleges that Defendant committed the following violations: (1) On February 20, 2016, Defendant was arrested by an Oklahoma Highway Patrol Trooper and booked into the Murray County Jail. Defendant posted a \$500.00 bond the same day and is scheduled to appear for sentencing in this matter on April 15, 2016. On March 4, 2016, Defendant was arrested by the Spencer Police Department for driving under the influence of drugs and being in possession of K2 (Synthetic Marijuana); (2) On January 20, 2016, Defendant was arrested in Murray County, Oklahoma while driving southbound on I-35. This area is outside of the Western District of Oklahoma, and Defendant did not have permission to travel outside of the district on this date; (3) Defendant failed to appear for random drug testing on September 30, October 27, November 16, and December 12, 2015.

At the hearing, Defendant entered a plea of true to allegation three. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the March 29, 2016 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, with no supervised release to follow.

SIGNED this 7th day of April, 2016.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE